

## SAFETY OF EMPLOYEES AND TRAVELERS UPON RAILROADS, ETC.

APRIL 19, 1904.—Referred to the House Calendar and ordered to be printed.

Mr. HEPBURN, from the Committee on Interstate and Foreign Commerce, submitted the following

### REPORT.

[To accompany H. R. 12442.]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 12442) to amend "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes," approved March 2, 1893, as amended April 1, 1896, and March 2, 1903, having considered the same, report thereon with a recommendation that it pass.

The amendment to the acts referred to is brief and has but one object, and is as follows:

That upon the application of any common carrier operating a narrow-gauge railway, the Interstate Commerce Commission may, after full hearing, release such common carrier from the duty of equipping its narrow-gauged locomotives with power driving-wheel brakes whenever, in the opinion of said Commission, the safety of employees and travelers on such narrow-gauged railway will be better promoted by the application of some other safety appliance capable of being used as a substitute for such power driving-wheel brake.

Under the existing law there is no discretion in the Commission on Interstate Commerce to permit any change in the character of brake provided for in the act of Congress, although they may be of opinion that on engines operated on narrow-gauge railroads a different character of brake would be more effective in promoting the safety of passengers and employees.

The amendment suggested to confer (1) the power on the Interstate Commerce Commission, after full hearing, to determine what character of brake on engines on narrow-gauge railroads is the most effective; (2) if they decide that there are other appliances than the power driving-wheel brake more effective to promote the safety of employees and travelers on narrow-gauge railroads, they are author-

ized by this amendment to designate the appliance to be used which, in their judgment, is the most effective.

Application was made first to the Interstate Commerce Commission by the Denver and Rio Grande and the Colorado Southern to permit them to change from the driving-wheel brake on their narrow-gauge roads to what is known as the water brake.

At said hearing the Brotherhood of Railroad Trainmen, the Brotherhood of Locomotive Firemen, the Order of Railway Conductors, and the Switchmen's Union of North America, in addition to the said railroads, were present. The Commission determined that it had no power under the statute to authorize the change, but they extended the time for the road to comply with the law until July 1, 1904, with the understanding that application would be made to Congress that the existing law might be amended. The following order was entered by the Commission:

The second class of applications relates to power driving-wheel brakes on narrow-gauge locomotives. The petitioners for relief in this regard are the Denver and Rio Grande and the Colorado Southern. These two companies are understood to operate the only important narrow-gauge lines in the United States. Briefly, their showing is that the use of this particular appliance, if not impracticable, is unnecessary and undesirable, for the reason that on their steep and long-descending grades the purpose of the law, viz, the control of a train without the use of hand brakes, is much better and more safely accomplished by another device, which is described as a water brake. The proofs in these cases show that the objects of the law are fully secured, though not by the precise mechanism which the law requires.

Without reciting the facts in detail, it is sufficient to say that the contention of the petitioners is sustained by their evidence, and this was virtually conceded, as we understood, by the representatives of the employees who attended the hearing. In a word, the law imposes a specific requirement which, in the case of narrow-gauge locomotives on these lines, is not compatible with the highest degree of safety. The device actually employed as a substitute for the driving-wheel power brake appears to be more effective and better suited to the conditions under which narrow-gauge lines are operated, especially on long and heavy grades. In our opinion, based upon the facts disclosed, the law should be so amended as to permit the use of the device now employed by these petitioners on their narrow-gauge lines.

They ask for such an extension as will give them opportunity to present the matter to the Congress, with a view to suitable legislation. It seems clear that this application is based upon reasonable and convincing grounds. Therefore, for the purpose of enabling this question to be acted upon at the next session of the Congress, an order will be made extending until July 1, 1904, the time within which the Denver and Rio Grande and the Colorado Southern shall comply with so much of the amendment of 1903 as relates to the use of power driving-wheel brakes on their narrow-gauge locomotives used in train service, but this extension shall not include or apply to such narrow-gauge locomotives as are or may be used in switching and yard service.

A bill was introduced in the Senate and in the House of Representatives to amend this law in accordance with the suggestion of the Commission.

It will be observed that under the terms of the bill Congress does not pass upon the question as to whether the water brake or the driving-wheel power brake is the most effective to be used on narrow-gauge railroads, but requires that to be determined after full hearing and notice to all parties by the Interstate Commerce Commission.

The committee gave full hearings to both the railroads and to those who opposed this bill. In behalf of the bill a number of affidavits were submitted by experts in the construction and operation of engines on narrow-gauge railroads with heavy grades with the two characters of brakes referred to, by superintendents of the roads as to the practical operation of the two brakes, by master mechanics and by engineers

operating engines upon the heavy grades of the Denver and Rio Grande and the Colorado Southern Railroads. Petitions were filed by 140-odd engineers who operated these engines favoring the passage of this bill in the interest of the safety of employees and passengers.

It was opposed by Mr. N. R. Fuller, representing the switchmen's, conductors', and brakemen's organizations in the railroad service, who dwelt chiefly in his argument in opposition to the advisability of a change from the driving-wheel power brake to the water brake.

After fully considering the arguments submitted for and against the passage of this measure, the committee is of the opinion that the petitioners have made such a strong case in the interest of the public that the existing law should be modified so as to authorize the Interstate Commerce Commission, after full hearing, to determine the question, in the interest of employees and travelers, as to the most efficient safety appliance that can be applied as a brake to engines on narrow-gauge roads. At this hearing all parties in interest can be properly represented and the technical questions growing out of the decision of this question can be decided, after obtaining the opinion of the best expert testimony, as well as the evidence of those who practically have been operating engines upon these narrow-gauge roads with sharp curves and long grades.

The object of Congress in the passing of these safety-appliance acts was to give to the employees and the public using interstate-commerce roads the highest efficiency of machinery and appliances in the operation of the same, and where so strong a case as the above is made of an exception to the general rule applying to these narrow-gauge roads the committee is of the opinion that in carrying out this uniform policy of Congress this discretion should be granted to the Interstate Commerce Commission to determine, after the fullest hearing, what is to the public interest.

The bill makes no other change in the safety-appliance acts, it modifies no other provision of existing law, nor does it affect in any way the necessity and use of the air brake on the tender or the other cars used in the train; nor will the passage of this bill affect existing law unless it is made clear to the Interstate Commerce Commission that the modification authorized in their discretion is to the interest of the employees engaged upon or the passengers using said road.

